

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

v.

Cause No. 2003-0071-CR

CURTIS GIOVANNI FLOWERS

MOTION TO RECUSE THE DISTRICT ATTORNEY

District Attorney Doug Evans has not yet publicly stated whether he will prosecute this case in the months to come or whether he will voluntarily step aside. The Attorney General presumably would take over the case if Mr. Evans does step aside. A decision is anticipated in the near future. So that the record is clear in the meantime, the Defendant hereby moves to recuse Mr. Evans.

Of course, this motion will be moot, and need not be resolved, if the District Attorney voluntarily steps aside. It is understood that if he does so, it will not necessarily be in response to this motion and will not indicate any agreement by him with this motion. But pending a decision on who ultimately will lead the prosecution of this case, the Defendant does not want to be perceived as having somehow acquiesced in Mr. Evans' participation for the duration of this case or having waived his right to seek Mr. Evans' recusal. The Defendant does not waive that right and specifically preserves it by filing this motion. At the same time, the Defendant recognizes that if Mr. Evans voluntarily withdraws, it will not be necessary for the parties to spend time litigating this motion or for the Court to spend time resolving it.

This motion is based on multiple grounds, including the fact that the District Attorney's misconduct led to each of the four verdicts in this case being reversed. This misconduct encompasses what the United States Supreme Court called a "relentless, determined effort to rid

the jury of black individuals” over the course of this case, *Flowers v. Mississippi*, 139 S. Ct. 2228, 2246 (2019), and what the Mississippi Supreme Court called “egregious” and “improperly prejudice[ial]” tactics undertaken “in bad faith” during the first two trials. *See Flowers v. State*, 773 So. 2d 309, 321, 328-30 (Miss. 2000) (*Flowers I*); *Flowers v. State*, 842 So. 2d 531, 538, 555-56 (Miss. 2003) (*Flowers II*). In addition, it is now clear that the District Attorney failed to disclose exculpatory evidence and failed to disclose the full range of favors done for the violent and dangerous career criminal, Odell Hallmon, to secure his ongoing testimony against Curtis Flowers --- testimony which Hallmon now admits was “a bunch of lies” told because “I helped them” and “They helped me.”

This case has now lasted twenty-two years and spanned six trials. Mr. Flowers has been incarcerated the entire time even though no valid conviction has been obtained. With each of the four verdicts having been overturned because of the District Attorney’s actions, it is time to move forward with a new prosecutor who does not have this cloud hanging over him or her.

As mentioned previously, this motion is being filed at this time so that the record is clear pending a likely decision on the matter in the near future. If Mr. Evans voluntarily steps aside, this motion need not be pursued. If he does not, the Defendant will prepare and submit a supplement to this motion and provide additional details and additional reasons why recusal is necessary.

Respectfully Submitted,



ROBERT B. MCDUFF
MS Bar No. 2532
Mississippi Center for Justice
767 North Congress Street
Jackson, MS 39202
rbm@mcdufflaw.com
601-259-8484 (m)
601-969-0802 (o)

Counsel for the Defendant

October 11, 2019

CERTIFICATE OF SERVICE

The undersigned attorney for Curtis Giovanni Flowers hereby certifies that he has caused to be served by electronic mail, pursuant to agreement of counsel, a true and correct copy of this document to:

Doug Evans
District Attorney
234 First Street
P.O. Box 1262
Grenada, MS 38902
E-mail: Evansla5@gmail.com

On the 11 day of October, 2019.



Robert B. McDuff
Counsel for the Defendant